

EXHIBIT L

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 - - -

5
6 IN RE: NATIONAL : HON. DAN A.
7 PRESCRIPTION OPIATE : POLSTER
8 LITIGATION :
9 :
10 APPLIES TO ALL CASES : NO.
11 : 1:17-MD-2804
12 :

13 - HIGHLY CONFIDENTIAL -

14 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW

15 VOLUME I

16 - - -

17 April 17, 2019

18 - - -

19 Videotaped deposition of
20 THOMAS PREVOZNIK, taken pursuant to
21 notice, was held at the law offices of
22 Williams & Connolly, 725 12th Street,
23 Washington, D.C., beginning at 9:11 a.m.,
24 on the above date, before Michelle L.
25 Gray, a Registered Professional Reporter,
26 Certified Shorthand Reporter, Certified
27 Realtime Reporter, and Notary Public.

28 - - -

29 GOLKOW LITIGATION SERVICES
30 877.370.3377 ph | 917.591.5672 fax
31 deps@golkow.com

1 Michelle Gray, and she will now
2 please swear in the witness.

3 - - -

4 ... THOMAS PREVOZNIK, having
5 been first duly sworn, was
6 examined and testified as follows:

7 - - -

8 EXAMINATION

9 - - -

10 BY MS. MAINIGI:

11 Q. Good morning, Mr. Prevoznik.

12 A. Good morning.

13 Q. I will begin the
14 questioning. My name is Enu Mainigi, and
15 I'm going to begin the questioning on
16 behalf of the defendants, and then there
17 are other defendants that may question
18 you after I'm done, and then the
19 plaintiffs will question you thereafter.

20 Mr. Prevoznik, I have put in
21 front of you Exhibit 1. And Exhibit 1 is
22 the notice of deposition.

23 (Document marked for
24 identification as Exhibit

1 DEA-Prevoznik-1.)

2 (Document marked for

3 identification as Exhibit

4 DEA-Prevoznik-2.)

5 BY MS. MAINIGI:

6 Q. The notice of videotaped
7 30(b)(6) deposition for your testimony
8 today.

9 Do you see that?

10 A. Yes, I do.

11 Q. And do you see that attached
12 to the notice is a letter dated March 22,
13 2019, from the Department of Justice
14 addressed to myself, and Ms. Singer of
15 Motley Rice?

16 A. Yes.

17 Q. Have you had a chance to
18 review, either alone or with your
19 counsel, the substance of this March 22nd
20 letter as well as the notice of
21 deposition?

22 A. Yes, I have.

23 Q. And do you understand that
24 you are here today testifying in a

1 30(b)(6) capacity on behalf of the Drug
2 Enforcement Administration?

3 A. Yes, I do.

4 Q. And as I understand it, you
5 will be testifying as to certain topics
6 designated consistent with the letter
7 dated March 22, 2019, correct?

8 A. Correct.

9 Q. Okay. Now, if you could
10 turn to the letter itself, Mr. Prevoznik.
11 And I'm looking specifically at Page 2 of
12 the letter.

13 A. Okay.

14 Q. You have been designated to
15 provide testimony on Topic 2, DEA's
16 interpretation and enforcement of and
17 practices related to 21 U.S.C. Section
18 823 and 21 C.F.R. Section 1301.74,
19 subject to the limitations set forth by
20 DOJ in this letter, correct?

21 A. Correct.

22 Q. How -- I notice,
23 Mr. Prevoznik, that Exhibit 3 that is in
24 front of you, is a deposition prep chart,

1 programmers that provided the details of
2 like what we could look at, whereas once
3 it went off the mainframe, then it become
4 more client service, so that the field
5 could actually do more things with it.
6 So that was roughly the fall -- fall of
7 2009 when it went off the mainframe.

8 Q. To your understanding, what
9 are the uses of the ARCOS data?

10 A. Well, it was originally for
11 UN reporting, so it was -- it's used for
12 UN reporting. It's used for quotas.
13 It's used to show trends. It's used in
14 our investigations, you know,
15 administrative, civil, criminal. It
16 supports investigations. We share it
17 with other federal agencies or state
18 agency, law enforcement, regulatory
19 agencies as well that are all, you know,
20 working to combat the diversion of
21 controlled substances. So it's working
22 with them in corroboration on
23 investigations. So it's used in various
24 means.

1 it, it doesn't mean anything.

2 So that's part of our
3 review, when we go out and do schedule
4 investigations, is to review, are they
5 factually, in fact -- did -- is -- are
6 they operating a system that can detect a
7 suspicious order.

8 BY MS. MAINIGI:

9 Q. And that's something that
10 the DEA reviews periodically as part of
11 its auditing process, correct?

12 A. Correct.

13 Q. So as part of the audit
14 process, operating systems that are
15 designed to review suspicious orders are
16 reviewed by the DEA?

17 A. Well, it's not just the
18 schedule. I mean it could be a
19 pre-registration, somebody is coming on
20 and they have -- we have to go through
21 the whole public interest of, you know,
22 what do you have in place to operate and
23 detect a system. So it's not just a
24 schedule investigation. There are

1 schedule investigations that we follow
2 up, and we do that as well. So it comes
3 in -- it comes in various times that
4 we're going to review somebody's
5 operating system, whether we're on
6 schedule investigation, or whether we're
7 doing an investigation on a pharmacy or
8 something like that, where we're going to
9 look at how many SORs were submitted or
10 not submitted, or we're going to look at
11 the ARCOS data, how much did they buy.

12 We're going to look at
13 various things to make the determination
14 on what is going on.

15 Q. And if either in the
16 pre-registration process or in the audit
17 process the DEA determines that a
18 registrant's system is not adequately
19 detecting suspicious orders, is that
20 something that is conveyed to the
21 registrant?

22 A. Yeah, we -- we would tell
23 them, you need to add something.

24 Q. It's clear in the Rannazzisi

1 the characterization.

2 THE WITNESS: Nationwide,
3 correct.

4 BY MS. MAINIGI:

5 Q. Instead, one-off guidance
6 was perhaps provided in the context of
7 individual distributor meetings, correct?

8 A. Yes. Along with the MOAs
9 and the settlements that were done.

10 Q. And is there documentation
11 of what was said at the individual
12 distributor meetings?

13 A. It would be the PowerPoints
14 and the report -- after report.

15 Q. And this is an internal DEA
16 report?

17 A. Yes.

18 Q. And have you reviewed those
19 internal DEA reports for the purpose of
20 preparing for your testimony today?

21 A. Some of them.

22 Q. Now, does the DEA agree that
23 there's more than one way to design and
24 operate a system that can identify and

1 report suspicious orders?

2 A. Yes.

3 Q. And there's no single
4 feature that makes a suspicious order
5 monitoring system compliant, correct?

6 A. Correct.

7 Q. And the DEA leaves it up to
8 the registrant to design a system that
9 works with its own business model and
10 customer base, correct?

11 A. Correct.

12 Q. Does it matter to the DEA
13 whether a registrant reviews orders
14 manually or uses an automated system?

15 A. No, it doesn't matter.

16 Q. Other than requiring that
17 the report, suspicious order report
18 clearly indicate that the order is
19 suspicious, does DEA require suspicious
20 order reports to follow a particular
21 format?

22 A. That's correct.

23 Q. Let me ask the question
24 again. The DEA does not require

1 answer.

2 THE WITNESS: Yeah, I

3 apologize.

4 BY MS. MAINIGI:

5 Q. No, no, no, my fault too.

6 A. Where was I?

7 Q. Is the know your customer --

8 I think you've answered my question.

9 The -- the know your
10 customer concept is not explicitly stated
11 in the regulation, correct?

12 A. Correct.

13 Q. And that's true even today,
14 correct?

15 A. Well, I mean it -- it still
16 goes back to maintaining control.

17 I mean, the whole structure
18 of the Controlled Substance Act, the
19 regulations, this is how you do business.
20 If you're going to do it -- be authorized
21 to handle controlled substances, this is
22 the way you're going to do it. So if
23 you're going to be selling to customers,
24 you need to know who your customers are.

1 THE WITNESS: It may or
2 may -- it may or may not.

3 BY MR. O'CONNOR:

4 Q. Would the same be true of an
5 unusually frequent order?

6 MR. FINKELSTEIN: Same
7 objection. You can answer.

8 THE WITNESS: Correct. It
9 may or may not.

10 BY MR. O'CONNOR:

11 Q. And the same would be true
12 of an order that deviates substantially
13 from the normal pattern?

14 MR. FINKELSTEIN: Same
15 objection. You can answer.

16 THE WITNESS: Correct. It
17 may or may not.

18 BY MR. O'CONNOR:

19 Q. Okay. And putting that
20 together, that means that not every
21 suspicious order leads to diversion,
22 correct?

23 MR. FINKELSTEIN: Objection.
24 Scope. You can answer.

1 THE WITNESS: Could you
2 please repeat that?

3 BY MR. O'CONNOR:

4 Q. Not every suspicious order
5 leads to diversion, correct?

6 A. Correct.

7 Q. I want to talk a little bit
8 about how suspicious order reports are --
9 are used within DEA.

10 Is it fair to say that most
11 suspicious order reports are submitted to
12 field offices?

13 A. I would say based on the
14 fact that the big three are filing
15 electronically, I would say the majority
16 electronically.

17 Q. When an order or when
18 suspicious order reports are filed
19 electronically, does that mean they are
20 filed with headquarters?

21 A. Yes. On the Legacy and the
22 vetted system.

23 Q. Okay. And do registrants
24 that are not reporting electronically to

1 Q. But to my question, has the
2 DEA ever provided any kind of guidance to
3 manufacturers informing them that they
4 were to know their customers' customer?

5 A. No, not to my knowledge.

6 Q. Okay. Let's talk for a
7 minute about ARCOS.

8 Generally speaking, what
9 sorts of information does ARCOS contain?

10 A. ARCOS contains the
11 manufacturers and distributors that are
12 to report all transactions for
13 Schedule I, Schedule II, Schedule III
14 narcotics, and GHB, and manufacturers
15 also have reported -- additional
16 reporting requirements for some
17 psychotropics.

18 Q. Okay. Would ARCOS contain
19 all of the distributions of prescription
20 opioids by manufacturers to distributors?

21 A. So the transactions for
22 manufacture -- yes, manufacturer to a
23 distributor? Yes.

24 Q. Would ARCOS contain all the

1 distributions of prescription opioids
2 from distributors to pharmacies or other
3 retail outlets?

4 A. For those items, yes.

5 Q. Does ARCOS data provide any
6 details about those transactions, like
7 the amount, the recipients --

8 A. Yes, it tracks the quantity.
9 It has the DEA number of the registrant
10 that -- whether it's a sale. It could be
11 a sale, it could be a purchase. It could
12 be a disposition of, you know, getting
13 wasted. Any transaction that -- that
14 could fall within the system that --
15 that's trackable, that would be in there,
16 for those items.

17 Q. Okay. Through ARCOS, can
18 DEA see the type of medication that's
19 being purchased?

20 A. Well, it's in there by NDC
21 number.

22 Q. Okay. And the NDC number
23 would -- would allow the DEA to determine
24 which product we are talking about?

1 A. Correct.

2 Q. So whether that was a -- the
3 DEA would know whether it was a oxycodone
4 5-milligram tablet, for example?

5 A. Correct.

6 Q. That level of detail?

7 A. Yes.

8 Q. Okay. And the DEA receives
9 that information for each tablet that the
10 manufacturers sell to distributors,
11 correct?

12 A. Each tablet?

13 Q. Yes.

14 A. It's by bottle size, because
15 NDC code also has the bottle size within
16 it.

17 Q. Got it. So -- so the DEA
18 can see each and every bottle that's
19 shipped between a manufacturer and a
20 distributor?

21 A. As long as that's what they
22 are reporting, yes.

23 Q. Okay. And through ARCOS,
24 DEA can also see each and every bottle of

1 opioids that's transmitted from a
2 manufacturer -- I'm sorry. Strike that.

3 And through ARCOS, DEA can
4 see each and every bottle of opioids
5 that's transferred from a distributor to
6 a pharmacy for example, correct?

7 A. Correct.

8 Q. And they'll know the
9 location of that pharmacy?

10 A. Correct.

11 Q. Do they have the address for
12 the pharmacy?

13 A. Yes. It's linked to the DEA
14 registration.

15 Q. Okay. So through ARCOS, the
16 DEA has precise information about how
17 much of certain products is being shipped
18 to which geographic areas, correct?

19 A. Correct.

20 Could I get a clarification
21 on what time frame you're talking about?

22 Q. Sure. So I would say 1996
23 to the present. Does the answer change
24 at all during that time period?

1 used for law enforcement. It's used for
2 regulatory -- when you work with state
3 regulatory boards, you share information
4 with them. If we're working on cases
5 regarding the diversion of controlled
6 substances. We use it for trending.

7 It's used for -- researchers
8 often use a lot of the data. They use
9 the reports that are -- the summary
10 reports that we post online.

11 We use it to corroborate
12 investigations. We use it to -- for
13 targeting, like oh here is -- here is a
14 potential target. We use it in a variety
15 of different ways.

16 Q. Did the delays you spoke of
17 give the DEA any concern about its
18 ability to use that data effectively to
19 discharge its obligations?

20 MR. FINKELSTEIN: Objection.
21 Vague.

22 THE WITNESS: Well, you're
23 saying excessive purchases so that
24 was even -- that was more

1 to in that provision we just covered,
2 right?

3 A. Yes.

4 Q. All right. DEA agrees that
5 chronic pain is a serious problem for
6 many Americans, true?

7 MS. SINGER: Objection.
8 Scope.

9 THE WITNESS: Yeah, people
10 have back pain.

11 BY MR. STEPHENS:

12 Q. And DEA also agrees that
13 it's crucial for physicians who are
14 engaged in legitimate pain treatment not
15 to be discouraged from providing proper
16 medication to patients as medically
17 justified?

18 MR. FINKELSTEIN: Scope.

19 MS. SINGER: Objection.
20 Scope.

21 THE WITNESS: Yes.

22 BY MR. STEPHENS:

23 Q. Okay. And DEA agrees that
24 opioids, properly prescribed by DEA

1 registered medical doctors, are an
2 appropriate medication for many
3 Americans?

4 MS. SINGER: Objection.
5 Scope.

6 MR. FINKELSTEIN: Scope.
7 Incomplete hypothetical.

8 THE WITNESS: Yes.

9 BY MR. STEPHENS:

10 Q. DEA also agrees that there's
11 a legitimate medical need under Title 21
12 U.S.C. 801 for prescription opioids to
13 treat pain in patients in the United
14 States?

15 MS. SINGER: Objection.
16 Scope.

17 THE WITNESS: For a
18 legitimate medical purpose, yes.

19 BY MR. STEPHENS:

20 Q. DEA also agrees that
21 prescription opioids are necessary to
22 maintain the health of the American
23 people?

24 MS. SINGER: Objection.

1 MR. FINKELSTEIN: Scope.

2 THE WITNESS: For all the
3 American people or those that need
4 it?

5 BY MR. STEPHENS:

6 Q. Those that need it.

7 A. Those that need it, yes.

8 Q. Okay. And DEA also agrees
9 that prescription opioids are necessary
10 to maintain the general welfare of
11 American people who need them?

12 A. Correct.

13 Q. Patients who are properly
14 prescribed opioid medications should be
15 able to obtain their medications from a
16 pharmacy?

17 MS. SINGER: Objection.

18 Scope.

19 I think this has been a long
20 line of questions outside of the
21 scope. And at some point I'd
22 request that DOJ instruct the
23 witness.

24 MR. FINKELSTEIN: I agree

1 that this is outside the scope.

2 I'll let the witness answer for

3 now if you have understanding.

4 THE WITNESS: Yes.

5 BY MR. STEPHENS:

6 Q. Is it also true under -- you

7 testified earlier today about the C.F.R.

8 regulations, correct?

9 A. Correct.

10 Q. And under Title 21 -- or I'm

11 sorry, under 21 C.F.R. 1301.71(b), it's

12 true that the regulation regarding

13 suspicious order monitoring does not

14 require strict compliance, it requires

15 substantial compliance?

16 MR. FINKELSTEIN: Did you

17 mean 74?

18 MR. STEPHENS: It might be

19 74.

20 MR. FARRELL: 1301.74(b)?

21 MR. STEPHENS: Yes. No,

22 actually -- here. Let me just

23 mark it.

24 (Document marked for

1 MR. FINKELSTEIN: Scope.

2 THE WITNESS: Can you please
3 repeat it.

4 BY MR. STEPHENS:

5 Q. Sure. As to prescription
6 opioids, DEA believes that the
7 overwhelming majority of prescribing in
8 America is conducted responsibly?

9 A. Yes, correct.

10 Q. And DEA has stated that
11 99.5 percent of prescribers do not
12 overprescribe opioids?

13 MR. FINKELSTEIN: Scope.

14 You can answer if you know.

15 THE WITNESS: I don't know
16 that we said 99.5 percent. I've
17 heard the figure 1 to 2 percent.

18 BY MR. STEPHENS:

19 Q. Okay. Well, let me show you
20 the transcript.

21 MR. FARRELL: Can you
22 reference the transcript, please.

23 MR. STEPHENS: Yes, sir.

24 (Document marked for

1 IN THE UNITED STATES DISTRICT COURT
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5

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16 SUBJECT TO FURTHER CONFIDENTIALITY REVIEW
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18 VOLUME II
19 - - -
20

21 April 18, 2019
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24 Continued videotaped
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1 Retail chain pharmacies
2 commonly use a self-distributing model
3 where they distribute to chain pharmacy
4 locations that they own.

5 MR. FINKELSTEIN: Objection.
6 Scope. Answer if you know.

7 THE WITNESS: Some do, and
8 some have changed.

9 BY MR. STEPHENS:

10 Q. Okay. For example,
11 Walmart's distribution centers only
12 distributed to Walmart pharmacies at
13 Walmart store locations?

14 MS. SINGER: Objection.

15 MR. FINKELSTEIN: Objection.
16 Scope. Calls for speculation.

17 THE WITNESS: That was
18 correct, yes.

19 BY MR. STEPHENS:

20 Q. All right. I'd like to ask
21 you some questions about Topic 3 related
22 to the guidance that DEA provides
23 regarding the adequacy of SOM systems.

24 Okay?

1 registrants about a registrant's SOMs
2 system, true?

3 A. Yes. True.

4 Q. DEA headquarters expects a
5 registrant to listen to the information
6 it receives from DEA field office
7 personnel, true?

8 MR. FINKELSTEIN: Vague.

9 THE WITNESS: Yeah. It
10 depends what they are asking,
11 sure.

12 BY MR. STEPHENS:

13 Q. Okay. And the registrants
14 who are visited by DEA field office
15 personnel can rely on the information
16 that they receive from DEA field division
17 personnel regarding SOMs systems, true?

18 MR. FINKELSTEIN: Vague.
19 Incomplete hypothetical.

20 THE WITNESS: Yeah, they get
21 guidance.

22 BY MR. STEPHENS:

23 Q. Would you agree that it's
24 important for DEA's diversion control

1 Q. And DEA viewed a ratio of
2 95 percent controlled substances versus 5
3 percent non-controlled substances as a
4 possible indication that the internet
5 pharmacy was diverting the controlled
6 substances true?

7 A. I don't -- I don't think we
8 locked in on those specific numbers. I
9 mean, that was an example he gave of 95
10 and five. But we were -- we were
11 comparing against a brick-and-mortar
12 store of what typically happens there.

13 Q. Yeah. Okay. So -- and a
14 brick-and-mortar store would be like a
15 Walmart or CVS, a Rite Aid, HBC Giant
16 Eagle, CVS, right?

17 A. As well as independent
18 pharmacies as well, yes.

19 Q. Okay. And Walmart
20 pharmacies never had a ratio of
21 controlled to noncontrolled substances
22 that approached anything like the 95
23 percent to 5 percent ratio that the DEA
24 saw at some rogue internet pharmacies,

1 right?

2 MR. FINKELSTEIN: Wait.

3 Scope, calls for speculation.

4 THE WITNESS: Not to my
5 knowledge.

6 BY MR. STEPHENS:

7 Q. Okay. CVS, Walgreens, Rite
8 Aid, HBC Giant Eagle, they never had a
9 ratio of controlled to noncontrolled
10 substances that was 95 percent controlled
11 to 5 percent non-controlled, right?

12 MR. FINKELSTEIN: Scope.
13 Calls for speculation.

14 THE WITNESS: Not to my
15 knowledge.

16 MR. FINKELSTEIN:
17 Mr. Videographer, what's our
18 on-the-record time?

19 THE VIDEOGRAPHER:
20 42 minutes.

21 MR. FINKELSTEIN: We're past
22 seven hours. So everybody knows.

23 BY MR. STEPHENS:

24 Q. DEA has acknowledged and has

1 acknowledged in presentations that it
2 gave that no chain pharmacies were rogue
3 pharmacies, right?

4 A. Correct.

5 MR. FINKELSTEIN: Hang on
6 one second. I am just reading the
7 question.

8 Okay.

9 BY MR. STEPHENS:

10 Q. Your answer was "correct,"
11 right?

12 A. Yes.

13 Q. Walmart, CVS, Rite Aid,
14 Walgreens, HBC Giant Eagle are all chain
15 pharmacies, true?

16 A. True.

17 Q. DEA is generally aware that
18 Walmart only distributes controlled
19 substances to its own Walmart store
20 pharmacies, right?

21 MR. FINKELSTEIN: Objection.
22 Scope. Calls for speculation.

23 THE WITNESS: Well, that
24 just changed. But prior to the

1 change, yes.

2 BY MR. STEPHENS:

3 Q. Okay. And the change now is
4 that they don't distribute at all, right?

5 A. Correct.

6 Q. Okay. Walmart did not
7 distribute controlled substances to
8 internet pharmacies, right?

9 MR. FINKELSTEIN: Scope.
10 Calls for speculation.

11 THE WITNESS: I don't know.
12 I can't answer that, because I
13 don't know if there were any sales
14 store -- from the store to one of
15 those -- one of those potentially
16 rogue pharmacies.

17 BY MR. STEPHENS:

18 Q. I'm only talking about --

19 MR. FINKELSTEIN: Let him
20 finish his answer.

21 MR. STEPHENS: I've let him
22 finish his answer.

23 MR. FINKELSTEIN: No, you
24 haven't let him finish his answer.

1 responsible for diverting opioids, true?

2 MR. FINKELSTEIN: Letting
3 this go for now. You can answer.

4 THE WITNESS: Yes.

5 BY MR. STEPHENS:

6 Q. And those ARCOS leads could
7 be helpful to DEA's efforts in the field,
8 right?

9 A. Yes.

10 Q. And that would support DEA's
11 mission to prevent diversion where it's
12 occurring, right?

13 A. It points to it. It might
14 not just be that source. There's going
15 to be other issues as well, so...

16 Q. Would you agree with a
17 general principle that more investigative
18 leads generated by ARCOS would equate to
19 more proactive investigations of
20 potential diverters?

21 MR. FINKELSTEIN: Incomplete
22 hypothetical.

23 THE WITNESS: Yeah. It's a
24 point.

1 UNITED STATES DISTRICT COURT
 2 FOR THE NORTHERN DISTRICT OF OHIO
 3 EASTERN DIVISION

4 IN RE: NATIONAL)
 5 PRESCRIPTION) MDL No. 2804
 6 OPIATE LITIGATION)
 7 _____) Case No.
 8) 1:17-MD-2804
 9)
 10 THIS DOCUMENT RELATES) Hon. Dan A.
 11 TO ALL CASES) Polster
 12)

13 FRIDAY, MAY 17, 2019

14 HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
 15 CONFIDENTIALITY REVIEW

16 - - -

17 Videotaped deposition of Thomas
 18 Prevoznik, Volume III, held at the offices of
 19 WILLIAMS & CONNOLLY LLP, 725 Twelfth Street,
 20 NW, Washington, DC, commencing at 8:10 a.m.,
 21 on the above date, before Carrie A. Campbell,
 22 Registered Diplomate Reporter and Certified
 23 Realtime Reporter.

24 - - -

25 GOLKOW LITIGATION SERVICES
 877.370.3377 ph | 917.591.5672 fax
 deps@golkow.com

1 to Walmart stores.

2 QUESTIONS BY MS. FUMERTON:

3 Q. And your other commentary after
4 you said "yes" was simply pure speculation on
5 your part, correct?

6 A. Correct.

7 Q. Walmart was not a wholesale
8 distributor of controlled substances,
9 correct?

10 MR. FINKELSTEIN: Scope.

11 THE WITNESS: What do you mean
12 by that?

13 QUESTIONS BY MS. FUMERTON:

14 Q. Well, various terms have been
15 used by plaintiffs when asking questions, and
16 what I'm distinguishing between are
17 distributors who distribute the wholesale to
18 many different pharmacies, independent and
19 the like, and a distributor like Walmart that
20 only self-distributes controlled substances.

21 Do you understand that
22 distinction?

23 A. Yes, correct.

24 Q. Okay. So under that
25 distinction, Walmart is not a wholesale

1 distributor of controlled substances,
2 correct?

3 MR. FINKELSTEIN: Scope.

4 THE WITNESS: Correct.

5 QUESTIONS BY MS. FUMERTON:

6 Q. And that's true for Rite Aid as
7 well, correct?

8 MR. FINKELSTEIN: Scope.

9 THE WITNESS: Yes.

10 QUESTIONS BY MS. FUMERTON:

11 Q. And Walgreens, CVS and HBC
12 Giant Eagle, correct?

13 MR. FINKELSTEIN: Scope.

14 THE WITNESS: Yes.

15 QUESTIONS BY MS. FUMERTON:

16 Q. And would you agree that
17 nonmembers -- well, let me strike that.

18 You would agree that there may
19 be reasons why nonmembers of HDMA do not need
20 to follow HDMA guidelines, correct?

21 MR. FINKELSTEIN: Scope.

22 Vague.

23 THE WITNESS: I don't even know
24 that the HDMA members have to follow
25 the guidelines either. I mean, the

1 registrants have to make their
2 decisions based on the registration.

3 HDMA is not a registrant.

4 QUESTIONS BY MS. FUMERTON:

5 Q. You would agree that nonmembers
6 of HDMA might have different business models
7 than HDMA members, correct?

8 A. Yes. Yes.

9 MR. FINKELSTEIN: Wait a
10 minute.

11 THE WITNESS: Oh, sorry.

12 MR. FINKELSTEIN: Scope. Calls
13 for speculation.

14 QUESTIONS BY MS. FUMERTON:

15 Q. And the DEA expects that each
16 registrant will review its own business model
17 and design a SOM system that fits its
18 designed method of distribution, correct?

19 A. Yes.

20 Q. Mr. Prevoznik, you're familiar
21 with immediate suspension orders, correct?

22 A. Yes.

23 Q. Are immediate suspension orders
24 also sometimes referred to as ISOs?

25 A. Yes.